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UNCLAS SECTION 01 OF 02 GUATEMALA 002849

SIPDIS

SENSITIVE

DEPARTMENT PLEASE PASS TO THE OFFICE TO US TRADE

E.O. 12958: N/A

TAGS: ELAB ETRD ECON PGOV PHUM EAID ASEC GT

SUBJECT: BIRTH OF A UNION IN GUATEMALA

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**¶11. (U)** Summary: Following months of negotiation and some severe conflicts regarding labor rights, the management of a major apparel manufacturer agreed to support the establishment of a labor union in its workforce. Potential CAFTA benefits and the steady interest of U.S. brands were encouraging factors. Additionally, the relevant labor federation greatly supported the company's management and the leaders of the fledgling union in their efforts to reach an agreement. End summary.

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Founding a Union, at Long Last  
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**¶12. (U)** On December 27, following months of negotiations, management of SAE-A, a Korean-owned major apparel producer, held a meeting with representatives of their workforce, the General Coordination of Guatemalan Workers (CGTG) labor federation, the Ministry of Labor, Gap Inc. (a major buyer of SAE-A production), and the Embassy's LabAtt to discuss the establishment of a union. At the meeting, management agreed to support the fledgling union's request for legal recognition by the Ministry of Labor and agreed to begin negotiating a collective bargaining agreement with the union.

**¶13. (U)** CGTG organizing director Jorge Jimenez stated that this effort in such an important company would set an example for collective bargaining throughout Guatemala. Jimenez suggested that both employers and organized labor had not always behaved in a positive manner, but that SAE-A and its workers were pioneers. SAE-A Executive Director Sou Young Koh noted that SAE-A's sister companies in Nicaragua and Mexico have unions and that respecting labor rights is part of SAE-A's internal policy.

**¶14. (SBU)** With this action, SAE-A becomes only the third apparel producer in Guatemala to have a union. Neither of the others, however, rival SAE-A's economic importance in Guatemala. The SAE-A conglomerate is the second largest apparel operation in Guatemala, with seven factories and 7,000 employees. SAE-A produced USD 320 million in exports in 2005 for such brands as Gap, Liz Claiborne, Wal-Mart, and Target. (Note: Of the more than 200 apparel factories, approximately 80 percent are Korean-owned, including all three unionized firms. Earlier in 2005, there were already three factories with unions, but one of these went bankrupt and shut its doors. End note.)

**¶15. (U)** CGTG is the most important labor federation in Guatemala. The other two apparel company unions, however, are affiliated with another federation (known as FESTRAS) that primarily covers the food and beverage industries. FESTRAS leaders have decided to focus on their original food and beverage industries, so the apparel unions are transferring their affiliation to CGTG.

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Gangs, Threats, and Anti-Union Pressure  
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**¶16. (U)** SAE-A's main production facility in the Mixco municipality adjacent to Guatemala City has suffered extensive difficulties with gang activity in the area and within the factory. Two years ago, SAE-A's Chief Executive Officer was kidnapped by gang members. Although the company paid the ransom, the kidnappers shot him through the throat and left him for dead. For several years, employees have faced robberies and extortion activities during their commutes to and from work.

**¶17. (SBU)** In early 2005, several gang members concealed their gang affiliations in order to get jobs within the factories. From their positions within the workplace, the gang members were able to provide intelligence to the gangs to target robbery and extortion efforts more effectively. SAE-A's human resources manager contacted the local police precinct to arrange to have police patrols within the factory.

Although no formal order was issued, in June police officers took up stations in the factory, identified the gang members and brought them to the human resources office. The company fired the gang members and the police arrested them for extortion.

¶8. (SBU) At the same time, however, police also detained 16 employees who had formally submitted paperwork to form a union. The human resources manager told these employees -- in the presence of the police officers -- that their activities were illegal and that they must resign or go to jail. 13 employees resigned, but the three that refused to do so were arrested and taken to jail. After spending the weekend in jail, they were brought before a judge where their cases were immediately dismissed.

¶9. (SBU) When the Ministry of Labor contacted SAE-A management regarding the case, Executive Director Koh contacted the Commission for the Verification of Corporate Codes of Conduct (COVERCO), a labor rights NGO, to investigate the allegation. COVERCO interviewed over 100 workers, inside and outside the factory, and reported to SAE-A management that the allegation was likely true. SAE-A fired the Korean human resources manager, his Korean deputy, and three other locally-engaged staff in the human resources department thought to be involved. SAE-A reinstated the 16 employees with back-pay and encouraged them to reinvigorate their organizing effort.

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Maintaining Proper Compliance  
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¶10. (SBU) In a November meeting with LabAtt and a Gap Inc. compliance inspector, Koh stressed that all labor activists and inspectors were welcome in his factory at any time. In a separate meeting with LabAtt, Koh noted that SAE-A's production in Guatemala increased by USD 50 million in 2005, primarily due to increases in labor productivity. It was not worth it, he said, to risk such investment over minor issues.

¶11. (U) Labor costs in Guatemala, Koh continued, are still far above those in China and India, but the pending entry into force of the Central American Free Trade Agreement (CAFTA) raised the importance of SAE-A's presence in Central America. Koh requested that LabAtt visit regularly in addition to visits by the U.S. apparel retailers, in order to certify SAE-A's adherence to internationally-recognized labor rights.

¶12. (U) According to Koh, one problem facing the company was that no one in the Government of Guatemala (GOG) could explain precisely what a company needed to do in order to be in compliance, since the Labor Code was riddled with errors and contradictory assertions. On November 29, however, C&N, a private law firm specializing in labor rights, issued the results of a two-year project: a fully up-to-date version of the Labor Code, including all revisions, amendments, and judicial orders that have affected the code in its 58 year existence. (Note: the edited Labor Code is now available on-line at the U.S. Department of Labor-funded website leyelaboral.com. End note.) In a companion piece to the Labor Code, C&N produced a primer on the precise legal responsibilities of both employers and workers. SAE-A's administrative and human resources staff told LabAtt that they keep both works close at hand.

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Comment  
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¶13. (U) While we are extremely pleased with how this problem turned out -- indeed, we see the final steps as a model for other businesses and labor organizations in Guatemala -- it is a shame that it took such a brazen anti-union action to awaken management to the issues facing its workforce. Still, the cooperation between management, labor, government, unions, activists, and the international brands is heartening and previously unseen in Guatemala. In particular, the Gap compliance officers played an extremely important role in bringing people together. In this situation, a U.S. brand and upcoming CAFTA benefits greatly contributed to the advance of labor rights.

¶14. (SBU) This issue is far from over. We expect the Ministry of Labor to accept the union soon, given that it is merely an administrative process at this point, but the actual negotiations of a collective bargaining agreement will demonstrate just how serious are both the management and workers. Additionally, we are concerned about the union-busting action by police officers in the factory and continue to press the National Civilian Police leadership for an investigation of this misconduct.

DERHAM